

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

IN RE: NEW ENGLAND)	
COMPOUNDING PHARMACY, INC.)	
PRODUCTS LIABILITY LITIGATION)	
)	MDL No. 13-md-2419-RWZ
v.)	
)	
This Document Relates to:)	
)	
All Cases)	
)	

**DEFENDANT LIBERTY INDUSTRIES, INC.’S
MOTION TO MODIFY THE ORDER ON MEDIATION PROGRAM**

Defendant, Liberty Industries, Inc. (“Liberty”) hereby moves pursuant to Fed. R. Civ. P. 54(b) and Sections II(H)(3) and II(T) of the Order on Mediation Program (“Mediation Order”) to modify the Mediation Order. *See* Dkt. No. 394. The Mediation Order does not permit for the production of documents from New England Compounding Pharmacy, Inc. d/b/a New England Compounding Center (“NECC”) to non-debtor defendants that are not affiliated with NECC (collectively, “Unaffiliated Defendants”) (or any other defendant). Liberty has sought the voluntary production of such documents because they are critical to its ability to make informed decisions regarding mediation and settlement. Counsel for the Plaintiffs’ Steering Committee, Official Committee of Unsecured Creditors, and the Chapter 11 Trustee have been unable or unwilling to facilitate the production of such documents and therefore, for these and all of the reasons stated in the accompanying Memorandum in Support, Liberty respectfully requests this Court ALLOW its Motion to Modify the Order on Mediation Program.

Respectfully submitted,
LIBERTY INDUSTRIES, INC.,
By its attorneys,

/s/ Peter G. Hermes

Peter G. Hermes, BBO No. 231840
phermes@hermesnetburn.com
Scott S. Spearing, BBO No. 562080
sspearing@hermesnetburn.com
Dianne E. Ricardo, BBO No. 675586
dricardo@hermesnetburn.com
HERMES, NETBURN, O'CONNOR
& SPEARING, P.C.
265 Franklin Street, 7th Floor
Boston, MA 02110
(617) 728-0050 (T)
(617) 728-0052 (F)

Dated: April 7, 2014

CERTIFICATE OF SERVICE

Pursuant to Local Rules 5.2(b)(2) and 5.4 of the Local Rules of the United States District Court for the District of Massachusetts, I hereby certify that this document, filed through the ECF system, will be sent electronically to the registered participants as identified on the Notice of Electronic Filing and that paper copies will be sent by first-class mail to those indicated as non-registered participants, if any, on April 7, 2014.

/s/ Peter G. Hermes

Peter G. Hermes

LOCAL RULE 7.1 CERTIFICATION

I hereby certify that counsel for Liberty Industries, Inc. conferred with counsel for the Plaintiffs' Steering Committee, Chapter 11 Trustee, and Official Committee of Unsecured Creditors and the parties were unable to reach agreement with respect to the issues raised herein.

/s/ Peter G. Hermes

Peter G. Hermes